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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,899	11/28/2001	Robert J. Macdonald	34200	1559
116	7590	07/07/2004		
PEARNE & GORDON LLP			EXAMINER	
1801 EAST 9TH STREET			CONLEY, FREDRICK C	
SUITE 1200				
CLEVELAND, OH 44114-3108			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/995,899	MACDONALD, ROBERT J.
	Examiner	Art Unit
	Fredrick C Conley	3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 29 March 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10 and 12-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 10 and 12-15 is/are allowed.

6) Claim(s) 1-5,9 and 16-20 is/are rejected.

7) Claim(s) 6-8 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,723,331 Weiss.

In reference to claim 1, Weiss discloses a fitted sheet for a mattress comprising a rectangular panel 34 of knit material having a central rectangular area, as shown by the dotted line 43, extending from one end of said panel to the other end thereof, and side margins (40,42) flanking said central area, said side margins being folded under said central area and joined thereto by seams 56 (col. 3 lines 62-63)(fig. 5A) extending across each end of said central rectangular area, characterized in that said seams at each end of said central rectangular area are arcuate (col. 3 lines 35-65).

Regarding claim 2, further characterized in that said seams are symmetrical about a mid-line of said central area that from end to end thereof (fig. 5).

Regarding claim 3, further characterized in that on each side of said mid-line of said central area, at each end of said sheet, said seam curves downwardly toward a folded side edge of said sheet (fig. 5).

Regarding claim 4, further characterized in that said seam is inherently flatter near said mid-line, and more convex near said folded side edge of said sheet.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,942,280 to May.

In reference to claim 1, May discloses a fitted sheet for a mattress comprising a rectangular panel 11 of knit material having a central rectangular area extending from one end of said panel to the other end thereof, and side margins (12) flanking said central area, said side margins being folded under said central area and joined thereto by seams 16 extending across each end of said central rectangular area, characterized in that said seams at each end of said central rectangular area are arcuate (fig. 3 & 5).

Regarding claim 2, further characterized in that said seams are symmetrical about a mid-line of said central area that runs from end to end thereof (fig. 1-2).

Regarding claim 3, further characterized in that on each side of said mid-line of said central area, at each end of said sheet, said seam curves downwardly toward a folded side edge of said sheet (fig. 3 & 5).

Regarding claim 4, further characterized in that said seam is inherently flatter near said mid-line, and more convex near said folded side edge of said sheet (fig. 3 & 5).

In reference to claim 5, May discloses a sheet comprising a rectangular panel of knit material having a central rectangular area 11 extending from one end of said panel to the other end thereof, and side margins (12,13) flanking said central area, said side margins being folded under said central area and joined thereto by seams extending across each end of said central rectangular area (col. 3 lines 5-12). May discloses finishing the lower side edges by enclosing elastic in a tape of soft material to provide a

soft and attractive edge (col. 4 lines 14-21). Therefore, it is inherent that the side edges are not finished until the elastic seam is sewn directly over the unfinished edge.

Regarding claims 9 and 16-20, including a loop or length of material 26 extending from the seam at one end of the sheet.

Allowable Subject Matter

Claims 10 are 12-15 allowed.

Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 07/15/03 have been fully considered but they are not persuasive. Contrary to the Applicant's arguments, Weiss clearly discloses a central rectangular area, represented in the horizontally extending dotted lines 43, extending from one end of said panel 34 with top and bottom edges/ends (36,38). Furthermore, the side margins (40,42) flank said central area 43 from one end of said central area to the other end thereof, and are folded under said central area and joined thereto by seams and extending across an edge of each end. Furthermore, the binding hem as shown in figure 5A clearly illustrates that an additional seam extends across the other edge of the top and bottom ends (36,38) of the central rectangular area 34 as recited in claim 1.

With regards to the Applicant's arguments, May also discloses a central rectangular area 11 including end walls 13 wherein the side margins flank the central

area and are joined thereto by seams 16 that extend across an edge of each end wall 13.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fredrick C Conley whose telephone number is 308-7468. The examiner can normally be reached on m-th m-fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC




TERI PHAM LUU
PRIMARY EXAMINER